

SUPERIOR COURT OF DURHAM COUNTY, NORTH CAROLINA

Green v. EmergeOrtho, P.A., Case No. 22CVS3533

**If EmergeOrtho notified you of a Data Incident which occurred
in or around May 2022,
you may be eligible for benefits from a class action settlement.**

A court authorized this Notice. This is not a solicitation from a lawyer.

Si necesita ayuda en español, comuníquese con el administrador al 1-844-979-3915.

- A Settlement has been reached in a class action lawsuit against EmergeOrtho, P.A., (“EmergeOrtho” or “Defendant”) concerning an alleged data security incident affecting Defendant which occurred in or around May 2022 (the “Data Incident”).
- The lawsuit is called *Green v. EmergeOrtho, P.A., Case No. 22CVS3533* (the “Action”). The lawsuit alleges that the Data Incident potentially exposed certain Private Information of Plaintiff and the members of the putative class.
- The Settlement Class includes all individuals identified on the Defendant’s Settlement Class List whose Private Information may have been involved in the Data Incident. It excludes: (1) the Judge presiding over this Action, and members of their direct families; (2) Defendant, its subsidiaries, parent companies, successors, predecessors, and any entity in which Defendant or its parents have a controlling interest and their current or former officers and directors; and (3) Settlement Class Members who submit a valid a Request for Exclusion prior to the Opt-Out Deadline.
- Your legal rights are affected regardless of whether you act. Please read this notice carefully.

| YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT | |
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| SUBMIT A CLAIM FORM | This is the only way you may receive benefits from this Settlement. The deadline to submit a Claim Form is June 24, 2024. |
| EXCLUDE YOURSELF FROM THE SETTLEMENT | You will receive no payment, but you will retain any rights you currently have with respect to Defendant and the issues in this case. The deadline to exclude yourself from the Settlement is May 24, 2024. |
| OBJECT TO THE SETTLEMENT | Write to the Settlement Administrator explaining why you do not agree with the Settlement. The deadline to object is May 24, 2024. |
| ATTEND THE FINAL APPROVAL HEARING | You or your attorney may attend and speak about your objection at the Final Approval Hearing. The Final Approval Hearing will be held on June 11, 2024 at 9:30 AM ET. |

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| DO NOTHING | You will not get any benefits from the Settlement, and you will give up certain legal rights. You will remain in the Settlement Class and be subject to the Release. |
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- These rights and options, and the deadlines to exercise them, are explained in this Notice. For complete details, please see the Settlement Agreement, whose terms control, available at www.EmergeOrthoSettlement.com.
- The Court in charge of this case still has to decide whether to approve the Settlement. No Settlement benefits or payments will be provided unless the Court approves the Settlement and it becomes final.

BASIC INFORMATION

What is this Notice and why should I read it?

The Court authorized this Notice to inform you about a proposed Settlement with Defendant. The case is called *Green v. EmergeOrtho, P.A.*, Case No. 22CVS3533. You have legal rights and options that you may act on before the Court decides whether to approve the proposed Settlement. This Notice explains the lawsuit, the Settlement, and your legal rights.

What is a class action lawsuit?

A class action is a lawsuit in which one or more plaintiffs—in this case, Plaintiff and Class Representative Daniel Green—sue on behalf of a group of people who have similar claims. Together, this group is called a “Class” and consists of “Class Members.” In a class action, the court resolves the issues for all class members, except those who exclude themselves from the class.

THE CLAIMS IN THE LAWSUIT AND THE SETTLEMENT

What is this lawsuit about?

Plaintiff claims that Defendant failed to implement and maintain reasonable security measures to adequately protect the Private Information in its possession and to prevent the Data Incident from occurring.

Defendant denies that it is liable for the claims made in the lawsuit and denies any allegations of wrongdoing. More information about the complaint in the lawsuit can be found on the Settlement Website, at www.EmergeOrthoSettlement.com.

Why is there a Settlement?

The Court has not decided whether the Plaintiff or Defendant should win this case. Instead, both sides agreed to this Settlement. That way, they can avoid the uncertainty, risks, and expense of

ongoing litigation, and Settlement Class Members will be eligible to get compensation now rather than years later—if ever. The Class Representatives and attorneys for the Settlement Class Members, called Class Counsel, agree the Settlement is in the best interests of the Settlement Class Members. The Settlement is not an admission of wrongdoing by the Defendant.

WHO'S INCLUDED IN THE SETTLEMENT?

How do I know if I am in the Settlement Class?

You are part of the Settlement as a Settlement Class Member if you received a notification letter from Defendant stating that your Private Information was or may have been compromised in the Data Incident.

Settlement Class Members will have been mailed notice of their eligibility. If you are still not sure whether you are included, you can contact the Settlement Administrator by calling 1-844-979-3915, by emailing info@emergeorthosettlement.com, or by visiting the Settlement Website, at www.EmergeOrthoSettlement.com.

This Settlement Class does not include (1) the Judge presiding over this Action, and members of their direct families; (2) Defendant, its subsidiaries, parent companies, successors, predecessors, and any entity in which Defendant or its parents have a controlling interest and their current or former officers and directors; and (3) Settlement Class Members who submit a valid a Request for Exclusion prior to the Opt-Out Deadline.

THE SETTLEMENT BENEFITS

What does the Settlement provide?

Under the proposed Settlement, Defendant will pay (or cause to be paid) \$550,000.00 into a Settlement Fund. The Settlement Fund, plus interest accrued thereon, will pay notice and administration costs, Court-approved attorneys' fees and costs, Court-approved service awards for class representatives, and certain Settlement Fund taxes and tax expenses (the "Net Settlement Fund"). The Net Settlement Fund will be used to provide eligible Settlement Class Members with payments and benefits described below.¹

Reimbursement for Lost Time and Out-of-Pocket Losses: If you spent time responding to the Data Incident, you may be eligible to receive compensation for Lost Time. If you incurred financial

¹ If the benefits claimed by all Settlement Class Members meets or exceeds the amount of the Net Settlement Fund, then the payments and/or benefits for your Claim may be reduced *pro rata* pursuant to Paragraph 70 of the Settlement Agreement by the Settlement Administrator so that the aggregate cost of all payments and benefits does not exceed the amount of the Net Settlement Fund.

losses that are fairly traceable to the Data Incident, you may be eligible to receive reimbursement for out-of-pocket losses. This category is capped at \$10,000.00 per individual claimant.

- A. Lost Time:** A claim for reimbursement may also include a claim for up to 6 hours of time spent in response to the Data Incident. Lost Time will be compensated at \$25.00/hour (\$150 cap). Claiming Lost Time requires only an attestation demonstrating that a Class Member spent the claimed time responding to issues raised by the Data Incident and may be completed by checking a box on the claim form next to the sentence: “I swear and affirm that I spent the amount of time noted in response to the EmergeOrtho data security incident.”
- B. Out-of-Pocket Losses:** A claim for reimbursement may include, but are not limited to the following provided the expenses were incurred primarily as a result of the Data Incident including, without limitation: (1) unreimbursed losses relating to fraud or identity theft; (2) professional fees including attorneys’ fees, accountants’ fees, and fees for credit repair services; (3) costs associated with freezing or unfreezing credit with any credit reporting agency; (4) credit monitoring costs that were incurred on or after the Incident through the date of claim submission; and (5) miscellaneous expenses such as notary, fax, postage, copying, mileage, and long-distance telephone charges.

Settlement Class Members with Out-of-Pocket Losses must submit documentation supporting their claims. This can include receipts or other documentation not “self-prepared” by the claimant that document the costs incurred. “Self-prepared” documents such as handwritten receipts are, by themselves, insufficient to receive reimbursement, but can be considered to add clarity or support other submitted documentation.

Claims for Out-of-Pocket Losses and Lost Time are subject to a combined cap of \$10,000.00 per individual.

Credit Monitoring and Identity Theft Protections: The Settlement Administrator, from the Settlement Fund, will purchase/provide credit monitoring codes for 2 years of 3 bureau monitoring, including \$1 million of identity theft insurance, to valid claimants.

Residual Cash Payment: After the distribution of attorneys’ fees, Class Counsel’s Fee Award and Expenses, Notice and Administrative Expenses, Service Awards, Compensation for Out-of-Pocket Expenses and Lost Time, the Settlement Administrator will make *pro rata* settlement payments of any remaining funds to each Class Member who submits a claim. Any class member may make a claim for a *pro rata* cash payment regardless of whether the member made a claim for Lost Time or Out-of-Pocket Losses or not. This may *pro rata* increase or decrease the cash payment.

Remediation Efforts: Defendant has taken steps to implement additional security measures and has provided training to its employees to protect against similar incidents.

For complete details, please see the Settlement Agreement, whose terms control, at www.EmergeOrthoSettlement.com.

HOW TO GET BENEFITS

How do I make a Claim?

To qualify for a cash benefit under the Settlement, or to request credit monitoring services, you must complete and submit a Claim Form.

Settlement Class Members who want to submit a Claim must fill out and submit a Claim Form online at the Settlement Website at, www.EmergeOrthoSettlement.com, or by mail to the Settlement Administrator. Claim Forms are available through the Settlement Website at, www.EmergeOrthoSettlement.com or by calling 1-844-979-3915.

All Claim Forms must be submitted no later than June 24, 2024.

When will I get my payment?

The hearing to consider the fairness of the Settlement is scheduled for June 11, 2024. If the Court approves the Settlement, eligible Settlement Class Members whose claims were approved by the Settlement Administrator will be sent payment after all appeals and other reviews, if any, are completed. Please be patient.

THE LAWYERS REPRESENTING YOU

Do I have a lawyer in this case?

Yes, the Court has appointed Mason LLP and Milberg Coleman Bryson Phillips Grossman as “Class Counsel” to represent you and all Settlement Class Members. You will not be charged for these lawyers. You can ask your own lawyer to appear in Court for you at your own expense if you want someone other than Class Counsel to represent you.

How will the lawyers be paid?

To date, Class Counsel has not received any payment for their services in conducting this litigation on behalf of the Class and have not been paid for their out-of-pocket expenses. Class Counsel will ask the Court for an award of attorneys’ fees not to exceed 33.33% of the Settlement Fund, or \$183,315.00 and for the reimbursement of litigation costs and expenses which were incurred in connection with the Action, not to exceed \$25,000.00. Such sums as may be approved by the Court will be paid from the Settlement Fund.

Class Counsel will also request a service award payment of \$5,000.00 for the Class Representative to be paid from the Settlement Fund.

The Court will determine the proper amount of any attorneys’ fees, costs, and expenses to award Class Counsel and the proper amount of any service awards to the Class Representatives.

Class Counsel will file their request for attorneys' fees, costs, and expenses and service awards for the Class Representatives with the Court, which will also be posted on the Settlement Website, at www.EmergeOrthoSettlement.com.

YOUR RIGHTS AND OPTIONS

What claims do I give up by participating in this Settlement?

If you do not exclude yourself from the Settlement, you will not be able to sue Defendant about the Data Incident, and you will be bound by all decisions made by the Court in this case, the Settlement, and its included Release. This is true regardless of whether you submit a Claim Form. However, you may exclude yourself from the Settlement (*see* below). If you exclude yourself from the Settlement, you will not be bound by any of the Released Claims, which are described in the Settlement Agreement available on the Settlement Website, at www.EmergeOrthoSettlement.com.

What happens if I do nothing at all?

If you do nothing, you will receive no benefits under the Settlement. You will be in the Settlement Class, and if the Court approves the Settlement, you will also be bound by all orders and judgments of the Court, the Settlement, and its included Release. You will be deemed to have participated in the Settlement and will be subject to the provisions of the Settlement Agreement. Unless you exclude yourself, you won't be able to file a lawsuit or be part of any other lawsuit against Defendant for the claims or legal issues released in this Settlement.

What happens if I ask to be excluded?

If you exclude yourself from the Settlement, you will receive no benefits under the Settlement. However, you will not be in the Settlement Class and will not be legally bound by the Court's judgments related to the Settlement Class and Defendant in this class action.

How do I ask to be excluded?

You can ask to be excluded from the Settlement. To do so, you must send a written notification to the Settlement Administrator stating that you want to be excluded from the Settlement in *Green v. EmergeOrtho, P.A.*, Case No. 22CVS3533. Your written notification must include: (1) the name of the proceeding; (2) your full name and current address; (3) your signature; and (4) the words "Request for Exclusion" or a comparable statement that you not wish to participate in the Settlement at the top of the communication. You must mail your exclusion request, postmarked no later than May 24, 2024, to the following address:

EmergeOrtho Settlement Administrator
P.O. Box 1908
Baton Rouge, LA 70821

You cannot exclude yourself by phone or email. Any individual who wants to be excluded from the Settlement must submit his or her own exclusion request. No group opt-outs shall be permitted.

If I don't exclude myself, can I sue Defendant for the same thing later?

No. Unless you exclude yourself, you give up any right to sue Defendant for the claims or legal issues released in this Settlement, even if you do nothing.

If I exclude myself, can I get anything from this Settlement?

No. If you exclude yourself, do not submit a Claim Form to ask for any benefits.

How do I object to the Settlement?

If you do not exclude yourself from the Settlement Class, you can object to the Settlement if you do not agree with any part of it. You can give reasons why you think the Court should deny approval by filing an objection. To object, you must mail a written objection to the Settlement Administrator stating that you object to the Settlement in *Green v. EmergeOrtho, P.A.*, Case No. 22CVS3533, and file the objection with the Durham County Clerk of Superior Court. Your objection must be filed no later than May 24, 2024.

The objection must be in writing and be personally signed by you. The objection must include: (i) the name of the proceedings; (ii) the Settlement Class Member's full name, current mailing address, and telephone number; (iii) a statement of the specific grounds for the objection, as well as any documents supporting the objection; (iv) the identity of any attorneys representing the objector; (v) a statement regarding whether the Settlement Class Member (or his/her attorney) intends to appear at the Final Approval Hearing; (vi) a statement identifying all class action settlements objected to by the Settlement Class Member in the previous 5 years; and (vii) the signature of the Settlement Class Member or the Settlement Class Member's attorney.

Written objections should be submitted to the Court at the address listed below:

Durham County Clerk of Superior Court
510 South Dillard Street
Durham, NC 27701

You must also mail the objection to the Settlement Administrator at the address listed below, postmarked no later than May 24, 2024:

EmergeOrtho Settlement Administrator
P.O. Box 1908
Baton Rouge, LA 70821

What's the difference between objecting and excluding myself from the Settlement?

Objecting simply means telling the Court that you don't like something about the Settlement. You can object only if you stay in the Settlement Class. Excluding yourself from the Settlement Class

is telling the Court that you don't want to be part of the Settlement Class. If you exclude yourself, you have no basis to object because the case no longer affects you.

THE COURT'S FINAL APPROVAL HEARING

When and where will the Court hold a hearing on the fairness of the Settlement?

The Court will hold the Final Approval Hearing on June 11, 2024 at 9:30 AM ET in Courtroom 6370 at 832 East Fourth Street, Charlotte, North Carolina 28202. The purpose of the hearing is for the Court to determine whether the Settlement is fair, reasonable, adequate, and in the best interests of the Settlement Class. At the hearing, the Court will hear any objections and arguments concerning the fairness of the proposed Settlement, including those related to the amount requested by Class Counsel for attorneys' fees, costs, and expenses and the service awards to Class Representatives.

The location, date and time of the Final Approval Hearing are subject to change by Court order. Any changes will be posted at the Settlement Website, at www.EmergeOrthoSettlement.com, or through the Court's publicly available docket. You should check the Settlement Website to confirm the date and time have not been changed.

Do I have to come to the hearing?

No. Class Counsel will answer any questions the Court may have. But you are welcome to attend the hearing at your own expense. If you send an objection, you don't have to come to Court to talk about it. If your written objection was filed or mailed on time and meets the other criteria described in the Settlement, the Court will consider it. However, you may appear on your behalf or pay a lawyer to attend on your behalf to assert your objection if you would like.

May I speak at the hearing?

Yes. If you do not exclude yourself from the Settlement Class, you (or your attorney) may appear and speak at the Final Approval Hearing concerning any part of the proposed Settlement.

GETTING MORE INFORMATION

Where can I get additional information?

This Notice summarizes the proposed Settlement. More details are in the Settlement Agreement, which is available at www.EmergeOrthoSettlement.com or by writing to EmergeOrtho Settlement Administrator, P.O. Box 1908, Baton Rouge, LA 70821.

How do I get more information?

Go to the Settlement Website, at www.EmergeOrthoSettlement.com, call 1-844-979-3915, email info@emergeorthosettlement.com or write to EmergeOrtho Settlement Administrator, P.O. Box 1908, Baton Rouge, LA 70821.

**PLEASE DO NOT CALL THE COURT, THE CLERK OF THE COURT, THE JUDGE, OR THE
DEFENDANT WITH QUESTIONS ABOUT THE SETTLEMENT OR CLAIMS PROCESS.**